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10/057,131

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EXAMINER

OPSASNICK, MICHAEL N

ART UNIT

PAPER NUMBER

2626

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/057,131

Applicant(s)

KLINEFELTER ET AL

Examiner

MICHAEL N. OPSASNICK

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,13-15,18,22-26 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,13-15,18 and 22-26,38-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3,13,38-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is not clear how the means for receiving and transmitting audio and visual information dual displays and microphones would be constructed and function within a single housing.

3. Claim 13 is objected to under 37 CFR 1.75(c) as being in improper form because claim 13 depends from a canceled claim. Accordingly, claim 13 has not been further treated on the merits.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3,13,38-40 recites the means for receiving and transmitting audio and visual information contained within a first user computer and a second user computer. There is insufficient antecedent basis for this limitation in the claim. It is not clear as to which computer the means resides. In claim one, there is a user computer and provider computer communication audio and visual information, with both users accessing the user computer, however, there is no mention of a second user computer interaction with the first user computer (just the provider computer in communication with the user computer). Although the first and second user computer is more clearly defined, there is no clear relationship between the user computer and the provider computer. Although the first and second means are defined, a more clear relationship between the user computer and the provider computer is needed. Since it is unclear to the claim scope of claim 3 and 13,38-40 the examiner will not attempt to interpret this claim language for art related examination purposes.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 1,2,14,15,18,22-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Bennett (5926787) in view of Flores (6370498).

As per claims 1,22, Bennett (5926787) teaches a communications services network including multiple users/viewers(Fig. 1) receiving video information (Fig. 7) and audio translated information (col. 18 lines 18-25) wherein the users require interpretations to facilitate communication (col. 15 lines 24-44; the lawyers involved in the proceedings can request the area of case law that applies) comprising means for receiving and transmitting visual information between the provider computer and the user computer (Fig. 1,7, examiner notes that the interpreted information is available for both users on the screen -- Fig. 1, 7, 8 and col. 3 line 60 – col. 4 line 10).

As per claims 1,22, Bennett (5926787) does not explicitly teach the transmission of audio information as well (the optional speech input is translated using a speech recognizer and transmitted as text); however, Flores (6370498) teaches providing both text and audio in differing requested languages from original text (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art of interpretative services to enhance the system as taught by Bennett (5926787) with text and audio translation at each individual computer because it would advantageously provide for multi-lingual use as determined by the user (Flores (6370498), col. 3 lines 45-49).

As per claim 2, the combination of Bennett (5926787) in view of Flores (6370498) teaches plurality of users and audio and visual information (Bennett

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(5926787), fig 1), and in combination with Flores (6370498), the audio and visual information).

As per claims 14,15,18,23, the combination of Bennett (5926787) in view of Flores (6370498) teaches that the devices used are not limited to pc's (col. 8 lines 18-24, and networks for remote access – col. 18 lines 5-11).

As per claims 24-26, the combination of Bennett (5926787) in view of Flores (6370498) teaches the recording and visual presentation of the user/interpreter (Flores (6370498), fig. 5b, video1,2 information).

Response to Arguments

8. Applicant's arguments received 3/17/08 have been fully considered.

As per applicant's arguments against the 35 U.S.C. 112 1st paragraph (on page 7 line 17- page 8 line 4), examiner respectfully disagrees and notes that the rejection pertains predominantly of having dual screen, microphones and camera into a single housing. The arguments presented are toward the availability of mixed/multiple audio signals, however, the rejection is toward the claim scope pertaining to a housing that has a display on both sides of the housing. Applicants argue that the inventive step is the "concept" of having a dual display, however, there still does not exist in the specification toward how this is necessarily accomplished. Applicants argue and give examples of one of ordinary skill in the art of display

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technology to create this display, and examiner argues that such a presentation shows that these claim features are not a novel, inventive step. Furthermore, the pointed to sections of the specification by the applicant further emphasizes the lack of written description as to how the device is constructed.

Examiner further argues that the Bennett et al reference teaches both interpretative and translational services (the disclosed CAT – computer aided transcription), along with language translation (abstract). Furthermore, Bennett et al teaches an interpretative transcription service that is an improvement over traditional interpretative services (col. 2 line 44 - col. 3 line 5). In other words, Bennett teaches both an improved automated transcription/interpretative service, along with more traditional interpretative services; wherein both disclosures meet the current claim scope (furthermore, Bennet suggests a human operator – as the user interpretation) . As to applicant's arguments toward “the complex process of interpretation and translation of human communications that are effectuated through a combination of audio and visual cues”, examiner argues that 1) Bennett discloses older systems that use such interpretations – col. 2 line 44 – col. 3 line 5; 2) Bennett discloses an improved interpretative service to counteract miscommunication/misunderstanding between such translations by automating, to a degree, the amount of interpretation – col. 5 lines 1-20 – the automated portion of Bennett overcomes possible misinterpretation of the court stenographer (interpreter) by offering visual feedback – col. 5 lines 30-45); 3) Bennett discloses “translation” – col. 13 lines 30 – col. 14 line 27; as well as interpretation – the CAT offers an interpretation of the input by the court stenographer – col. 6 lines 1-25). As per the arguments on page 10 of the response, Bennett offers users an interpretation, especially when a different language is required (col. 13 and 14). As per

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applicant's arguments on the bottom of page 10, examiner reiterates the features of Bennett wherein the output is an interpretation/translation of input by the court stenographer (which is an interpretation itself) and furthermore, applicant is arguing features (word meaning explanation, translation, personal understanding, etc.) that are not claimed. In the amended claims, the human interpreter aspect of claim 1 has no patentable weight since it is not reinforced in the body of the claim. As per applicant's arguments against a plurality of interpreters, examiner argues that Bennett (and Bennett in view of Flores) provides multiple interpreters/translators based upon the desired language output. Bennett also does not limit the type of device containing the software for voice input (col. 18 lines 18-24), as well as applicant's own disclosure of prior art (as an example, Galludet's use of TAP on cellular devices). As per applicants arguments against claim 25 (on the bottom of page 12 of the response), examiner disagrees and points to the same Fig. 5b, video 1 and video 2, wherein Flores explicitly teaches in the accompanying col. 7 lines 13-41, wherein the image of the interpreter is provided with the accompanying text. Examiner also notes that further claim scope limitations further defining the operator feature may overcome the Bennett reference, however, examiner suggests that applicant look at the Kahn reference (disclosed in previous office action notice of references cited) which disclosed human operator interpretation.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
1/21/09